

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
vs.) Case No. 19-cr-30143-SMY
)
REGINALD G. SMITH,)
)
Defendant.)

ORDER

YANDLE, District Judge:

Defendant Reginald G. Smith was sentenced on September 10, 2020 to 41 months imprisonment for possession with intent to distribute methamphetamine (Count 1) (Docs. 63, 66). According to the Bureau of Prisons inmate locator, he is currently housed at USP Lee and his projected release date is September 26, 2022.¹

Now pending before the Court is Smith's *pro se* Motion for Compassionate Release pursuant to the First Step Act of 2018 in which he seeks release due to the COVID-19 global pandemic (Doc. 68). The Government responded in opposition (Doc. 71). For the following reasons, the motion is **DENIED**.

Background

COVID-19 is a contagious virus which continues to spread across the United States. Individuals with certain underlying medical conditions, such as serious heart conditions and chronic lung disease, and those who are 65 years of age and older carry a heightened risk of severe illness and death from the virus. People Who Are at Higher Risk for Severe Illness, CENTERS FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>

¹ The briefing from 2021 notes that Defendant was incarcerated at USP Big Sandy at the time but has since moved facilities to USP Lee.

precautions/people-at-higher-risk.html (last visited January 7, 2022). USP Lee has a current inmate population of 1,410. See <https://www.bop.gov/locations/institutions/lee/> (last visited June 22, 2022). As of June 22, 2022, there were 0 positive COVID-19 cases among inmates and 1 positive staff member at USP Lee. 0 inmates have died from the virus and 487 have recovered. See <https://www.bop.gov/coronavirus/> (last visited June 22, 2022).

Smith is 35 years old and allegedly suffers from asthma and obesity. He asserts that he remains at risk for severe illness due to his medical conditions.

Discussion

Section 603 (b)(1) of the First Step Act permits the Court to reduce a term of imprisonment upon motion of either the Director of the Bureau of Prisons (“BOP”) or a defendant for “extraordinary or compelling reasons” so long as the reduction is “consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(1)(A)(i). A defendant seeking compassionate release must first request that the BOP file a motion seeking the same. *Id.* If the BOP declines to file a motion, the defendant may file a motion on his own behalf, provided he has either exhausted administrative remedies or 30 days have elapsed since the warden at his institution received such a request, whichever is earliest. *Id.* There is no issue with respect to the exhaustion of administrative remedies in this instance.

The spread of COVID-19 has presented extraordinary and unprecedented challenges for the country and continues to be an issue for prisons despite the safety protocols and policies that have been implemented. Smith alleges that he is at an increased risk from contracting COVID-19 and suffering severe illness because he suffers from serious health conditions, including asthma and obesity. According to the CDC, individuals with asthma and obesity *may* be at an increased risk of severe illness if they contract COVID-19. However, Smith received the first dose of the Pfizer-BioNTech vaccine on March 18, 2021 and was to have received his second dose in April 2021. Smith has not presented evidence that he is at greater risk for an adverse outcome in prison than he would be if released. See,

United States v. Barbee, 25 F.4th 531, 533 (7th Cir. 2022). Further, USP Lee currently has no infected inmates out of an inmate population of 1,410. Considering the totality of circumstances, the undersigned concludes that Smith does not present an extraordinary and compelling reason for his release at this time.

For the foregoing reasons, Defendant's Motion for Compassionate Release under the First Step Act of 2018 (Doc. 68) is **DENIED**.

IT IS SO ORDERED.

DATED: June 22, 2022

A handwritten signature in black ink, appearing to read "Staci M. Yandle". Above the signature is a circular official seal or stamp.

STACI M. YANDLE
United States District Judge